

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

01 Cr. 571 (JGK)

- against -

MEMORANDUM OPINION  
AND ORDER

CHRISTIAN T. VIERTEL,

Defendant.

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JOHN G. KOELTL, District Judge:

By letter dated February 11, 2007, the defendant makes several requests of this court.

First, the defendant seeks discovery of certain FBI records. The defendant has failed to show the relevance of such records to any matter that is pending before this Court or the basis for such discovery.

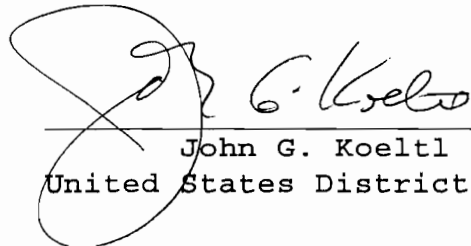
Second, the defendant seeks documents relating to the return of the indictment in this case in open court. Again, the defendant fails to provide a basis for discovery with respect to any proceedings before this Court. While the defendant appears to seek to make an argument that the indictment was not returned in open court, there is no asserted basis for that claim and there is no motion to that effect that is pending before this Court. See United States v. Mittal, 02 Civ. 8449, 2005 WL 2036023, at \* 7 (S.D.N.Y. Aug. 25, 2005) ("[E]ven if there had been a defect, the failure to return the indictment in open

court would not constitute a constitutional violation requiring the Court to vacate the conviction based on an allegedly defective indictment." ).

Third, the defendant seeks to vacate and withdraw a notice of lien. Viertel's sentence includes a fine of \$5,000 and a restitution order of \$345,673.96. Following the entry of the judgment of conviction, the United States Attorney's Office placed a lien on real property in Palm Beach County Florida owned by the defendant, pursuant to 18 U.S.C. § 3613(c). The defendant appears to argue that the lien should be vacated because he has an appeal pending. However, 18 U.S.C. § 3613(c) provides that a "lien arises on the entry of judgment." The defendant has failed to present a basis for vacating the lien in view of the outstanding judgment entered against him.

SO ORDERED.

Dated: New York, New York  
August 3, 2007



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John G. Koeltl  
United States District Judge